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File No.: 3550.001

July 22, 2008

VIA OVERNITE EXPRESS

Elizabeth Garcia, Calendar Clerk
Chambers of the Hon. James Ware
Courtroom 8, 4th Floor
United States District Court for the
Northern District of California
280 S. First Street
San Jose, CA 95113-3008

FILED

JUL 24 2008

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE

Re: *Briseno et al. v. Saratoga Pizza Corporation et al.*
Case No. C 08-00873 JW

Dear Ms. Garcia:

On June 26, 2008, the Court issued a "Scheduling Order; Order Referring to Judge Lloyd for Early Settlement Conference." In relevant part, the Court's Order expressly provided as follows:

"Accordingly, the Court refers the parties to Judge Lloyd for an Early Settlement Conference. The parties shall contact Judge Lloyd's Chambers within thirty (30) days from the date of this Order to schedule a conference."

On behalf of defendants, I have made repeated efforts to schedule a Settlement Conference pursuant to the Court's Order, but have had absolutely no response from plaintiff's counsel, Adam Wang, in that regard. Specifically, my efforts have included the following:

- July 11, 2008: I contacted Judge Lloyd's courtroom to determine the Judge's availability for a settlement conference.
- July 11, 2008: I left a voicemail message for Mr. Wang telling him that Judge Lloyd had July 23 and July 25 available for a settlement conference.
- July 11, 2008: I sent an email message to Mr. Wang confirming my voicemail message with regard to the dates available for a settlement conference with Judge Lloyd.

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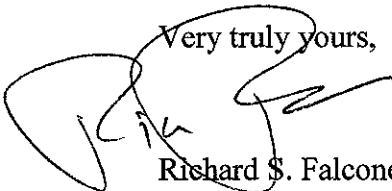
- July 17, 2008: I sent another email message to Mr. Wang reminding him that I had not had a reply from him to my July 11 voicemail or email, further requesting that he contact me in order that we could schedule a settlement conference.
- July 18, 2008: Mr. Wang sent an email to me to address an issue in another case in which he and I are opposing counsel, but he did not write to me relative to the underlying matter.

On Friday, July 18, 2008, I contacted Patty Cromwell, Judge Lloyd's Courtroom Deputy for the purpose of finding out if we could have Judge Lloyd set a date for a Settlement Conference as I was having no success in soliciting a reply from plaintiff's counsel. Though Ms. Cromwell informed me of dates of availability for Judge Lloyd for a Settlement Conference, she further informed me that Judge Lloyd could not schedule a Settlement Conference without the agreement of both counsel, and that Judge Lloyd could not issue an Order in that regard. It was suggested that I return the issue to Judge Ware for direction.

As we are nearing the expiration of the thirty (30) day period during which the Court ordered the parties to schedule a Settlement Conference, I am requesting the Court issue an Order scheduling the Settlement Conference on either Thursday, August 28 or Friday, August 29, 2008 as both counsel for defendants are available on that date. Those dates were provided to me by Ms. Cromwell when I spoke with her, although I do not know if those dates presently are available.

I appreciate the Court's attention to this request. I am of course, copying all counsel in the case with this letter.

Very truly yours,



Richard S. Falcone
PAYNE & FEARS LLP

RSF/bkb

cc: Adam Wang (plaintiffs' counsel)
Glenn Thompson (co-counsel for defendants)
Patty Cromwell (Chambers of the Hon. Howard Lloyd)